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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,070	07/02/2003	Robert Charles Monsen	CISCO-7984 (032590-0213)	6556

86421 7590 04/01/2009

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EXAMINER	
BLACK, LINH	

ART UNIT	PAPER NUMBER
2159	

MAIL DATE	DELIVERY MODE
04/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/614,070	MONSEN ET AL.	
	Examiner	Art Unit	
	LINH BLACK	2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 March 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-15 and 20-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-15 and 20-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is responsive the Applicant's argument filed 3/12/09. Claims 9-15 and 20-25 are pending in the application. Claims 9, 11-24 are independent claims.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-12 and 20-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The language of the claims 9-12 raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claims 20-25 disclose "an apparatus...", however, these claims do not explicitly or implicitly teach that the claims are directed to a physical system. Thus, claims 20-25 are rejected as being software per se, failing to fall within a statutory category of the invention.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 20-25 are vague and indefinite because the steps in the body of the claim recite the limitation of "means for..." which has been reasonably construed as the attempt by Applicant to invoke 35 U.S.C. 112, sixth paragraph. However, the metes and bounds of the claim have not been specifically defined for the limitation of "means for..." in the specification. The instant disclosure does not defined the structures necessary for each "means for 35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language "shall be construed to cover the corresponding structure...described in the specification and equivalents thereof." "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112." In re Donaldson Co., 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc). (See MPEP 2181 [R-2]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9-15, 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over King et al. (US 5537592) in view of Ain et al. (US 6775274), and further in view of Liao et al. (6292833).

As per claims 9, 13, 20-21, 24, King et al. teach

scanning a nonvolatile memory medium to find a first memory block containing a header indicating that the first memory block is the first memory block of an existing file stored on said the nonvolatile memory medium – fig. 22, items 526, 542 (memory blocks and headers); col. 11, line 9-20 (source block read process, data block from source disk 270 which is equivalent to "scanning a nonvolatile memory medium"; home block is the first memory block; the root directory header is read in and contains the block location of the root directory/existing file); col. 17, line 9-45.

finding a next memory block using a next block pointer stored in the header of the first memory block, if the existing file comprises more memory blocks than the first memory block, said the existing file being opened upon completion of said the finding – col. 9, lines 7-13 (starting block and a pointer to the next block); col. 19, last par.

As per claims 10, 25, King et al. teach repeating the finding step until either all memory blocks comprising the file have been found or an error condition occurs – figs. 24-26; col. 13, lines 24-50; col. 17, line 19 to col. 18, last par. However, King does not explicitly disclose the header including a first bit...is a first block of file, a second bit ...is

a last block of file, and a third bit...is part of a secure file. Ain discloses a data frame header can include a start of frame indicator, other information, a cyclic redundancy check...and an end of frame determinator and only wherein the data frame is the secure communication, the payload data is transmitted encoded - claim 1. Thus, it would have been obvious to one of ordinary skill in the art to combine King's teaching with Ain's teaching in order to allow data/file headers be created to contain necessary information to best serve the communication processing environment. Both King and Ain do not clearly disclose a file header can contain a third bit or information if the file is a secure file, Liao discloses a message header can contain a secure flag - col. 11, lines 41-57. Thus, it would have been obvious to one of ordinary skill in the art to combine King's teaching with Ain's and Liao's teachings in order to allow the creation and usage of data/file headers in a way that best serve the processing of the communication system.

As per claims 11, 14-15, King et al. teach

scanning a nonvolatile memory medium in sizes of one predetermined logical block, the nonvolatile memory medium storing an existing file – col. 6, lines 18-65; col. 11, lines 11-57; col. 28, lines 32-50.

for each logical block, reading a block header containing a magic number – fig. 24; col. 6, 1st paragraph (OEM field is equivalent to a status field or "magic number" because OEM field would either has characters, blanks or the "."); col. 10, 1st paragraph (each segment includes a status field which indicates whether the segment is being used)

testing the magic number to determine whether the logical block is a valid block or a

free block, and if the logical block is a valid block, performing a comparison of a file name encoded within the block header with a specified file name to be opened – col. 19, 1st and last paragraphs.

testing a flag within the block header to determine whether the logical block is the first block of the existing file, if the comparison produces a match – col. 5, last par. to col. 6, 1st paragraph; col. 16, last par to col. 17, line 45.

returning to said the scanning step with the next logical block until either the comparison produces a match or all the blocks have been tested, thereby indicating an error condition; said the existing file being opened if said the comparison produces a match – col. 15; col. 19, last par. However, King does not explicitly disclose the header including a first bit…is a first block of file, a second bit ...is a last block of file, and a third bit...is part of a secure file. Ain discloses a data frame header can include a start of frame indicator, other information, a cyclic redundancy check...and an end of frame determinator and only wherein the data frame is the secure communication, the payload data is transmitted encoded - claim 1. Thus, it would have been obvious to one of ordinary skill in the art to combine King's teaching with Ain's teaching in order to allow data/file headers be created to contain necessary information to best serve the communication processing environment. Both King and Ain do not clearly disclose a file header can contain a third bit or information if the file is a secure file, Liao discloses a message header can contain a secure flag - col. 11, lines 41-57. Thus, it would have been obvious to one of ordinary skill in the art to combine King's teaching with Ain's and

Liao's teachings in order to allow the creation and usage of data/file headers in a way that best serve the processing of the communication system.

As per claims 12, 22-23, King et al. teach

scanning a nonvolatile memory medium in sizes of one predetermined-sized logical block; the said nonvolatile memory medium for storing a new file – col. 6, lines 18-65; col. 9, lines 32-55; col. 18, last par. to col. 19, 1st par.

for each logical block, reading a block header containing a magic number - fig. 24; col. 6, 1st paragraph (OEM field is equivalent to a status field or "magic number" because OEM field would either has characters, blanks or the "."); col. 10, 1st paragraph (each segment includes a status field which indicates whether the segment is being used)

testing the magic number to determine whether the logical block is a valid block or a free block - col. 7, last par.; col. 19, 1st and last paragraphs.

and if the logical block is a free block, modifying its block header to comprise a valid magic number, the name of the new file to be opened, and flags indicating whether the logical block is either the first block or the last block of the new file – col. 5, last par. to col. 6, 1st par.; col. 22, 1st par.; col. 11, lines 20-67; col. 13, lines 20-50.

returning to said the scanning step with the next logical block until either the testing step has identified a free block or all the blocks have been tested, thereby indicating an error condition, the new file being opened if the testing step has identified a free block - col. 15; col. 19, last par. However, King does not explicitly disclose the header including a first bit...is a first block of file, a second bit ...is a last block of file, and a third bit...is part

of a secure file. Ain discloses a data frame header can include a start of frame indicator, other information, a cyclic redundancy check...and an end of frame determinator and only wherein the data frame is the secure communication, the payload data is transmitted encoded - claim 1. Thus, it would have been obvious to one of ordinary skill in the art to combine King's teaching with Ain's teaching in order to allow data/file headers be created to contain necessary information to best serve the communication processing environment. Both King and Ain do not clearly disclose a file header can contain a third bit or information if the file is a secure file, Liao discloses a message header can contain a secure flag - col. 11, lines 41-57. Thus, it would have been obvious to one of ordinary skill in the art to combine King's teaching with Ain's and Liao's teachings in order to allow the creation and usage of data/file headers in a way that best serve the processing of the communication system.

Response to Arguments

Applicant's arguments with respect to claims 9-15 and 20-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH BLACK whose telephone number is 571-272-4106. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trujillo can be reached on 571-272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LINH BLACK
Examiner
Art Unit 2169

/HUNG Q. PHAM/
Primary Examiner, Art Unit 2169